

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

KEVIN LAMAR PORTER,

Plaintiff,

v.

AMEZCUA, *et al.*,

Defendants.

Case No. 1:23-cv-01491-JLT-BAM (PC)

ORDER GRANTING DEFENDANTS'  
SECOND REQUEST FOR EXTENSION OF  
TIME TO FILE RESPONSIVE PLEADING

(ECF No. 42)

**Responsive Pleading Due: March 5, 2025**

Plaintiff Kevin Lamar Porter ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. This action proceeds on Plaintiff's second amended complaint against: (1) Defendant Amezcua for retaliation in violation of the First Amendment and a related state law claim for violation of the Bane Act; (2) Defendant Amezcua for excessive force in violation of the Eighth Amendment and related state law claims for battery and violation of the Bane Act for slamming Plaintiff on the ground; (3) Defendants Amezcua, Chao, and John Does 1–5 for excessive force in violation of the Eighth Amendment and related state law claims for battery and violation of the Bane Act for forcefully moving Plaintiff despite his complaints of severe pain; and (4) Defendants Amezcua, Chao, John Does 15, and Jane Does 1–2 for deliberate indifference to medical care in violation of the Eighth Amendment and a related claim for violation of the Bane Act.

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1 Pursuant to the Court's November 4, 2024, order finding service of the complaint  
2 appropriate and directing electronic service, and the December 30, 2024 order granting  
3 Defendants' *ex parte* motion for extension of responsive pleading deadline, Defendants Amezcua  
4 and Chao's answers or other responsive pleadings are due on or before February 3, 2025.<sup>1</sup> (ECF  
5 Nos. 33, 41.)

6 Currently before the Court is Defendants Amezcua and Chao's second motion for  
7 extension of time to file responsive pleading, filed January 22, 2025. (ECF No. 42.) Plaintiff has  
8 not had the opportunity to respond to the motion, but the Court finds a response unnecessary. The  
9 motion is deemed submitted. Local Rule 203(l).

10 In support of the motion, counsel for Defendants Amezcua and Chao declares that while  
11 he has spoken with one of the defendants, due to scheduling issues and despite several efforts to  
12 do so, he has not been able to speak with the other defendant regarding Plaintiff's allegations.  
13 (ECF No. 42.) Counsel must speak with each of Defendants Amezcua and Chao and review  
14 documents received between January 8 and January 17 to meaningfully prepare an answer. In  
15 addition, further investigation is needed to determine whether to proceed with and draft a motion  
16 to dismiss as to at least one of the defendants. Counsel's efforts to prepare an answer and a  
17 motion to dismiss have been hindered by a busy case load. Defendants request a further thirty-  
18 day extension of time, up to and including March 5, 2025, to respond to the second amended  
19 complaint. (*Id.*)

20 The Court, having considered the request, finds good cause to grant the requested  
21 extension of time. Fed. R. Civ. P. 6(b). The Court further finds that Plaintiff will not be  
22 prejudiced by the brief extension requested here. Counsel is warned that further requests for  
23 extension of this deadline will be subject to a narrow interpretation of what constitutes good  
24 cause.

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28 <sup>1</sup> Defendants John Doe 1–5 and Jane Doe 1–2 have not yet been served. Plaintiff was directed to provide written  
notice identifying these defendants for service of process by February 5, 2025. (ECF No. 32.)

Accordingly, it is HEREBY ORDERED as follows:

1. Defendants Amezcua and Chao's second request for extension of time to file responsive pleading, (ECF No. 42), is GRANTED; and
2. Defendants Amezcua and Chao shall file and serve a response to the second amended complaint on or before **March 5, 2025**.

IT IS SO ORDERED.

Dated: **January 24, 2025**

/s/ *Barbara A. McAuliffe*  
UNITED STATES MAGISTRATE JUDGE